

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

HAROLD L. COLE

v.

SHERIFF JIM HAMMOND

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No. 1:11-cv-167

Chief Judge Curtis L. Collier

**MEMORANDUM**

Harold L. Cole (“Cole”) filed a *pro se* pleading pursuant to 28 U.S.C. § 2254 (Court File No. 1) without a filing fee or an application to proceed *in forma pauperis* (Court File No. 1). Although Cole entitled his document as a writ of habeas corpus, because the contents indicated he actually intended to file a complaint pursuant to 42 U.S.C. § 1983 as he was challenging his conditions of confinement, the Court Ordered him to determine the type of pleading he wished to file, complete the appropriate form to file the pleading, and submit the proper filing fee or a completed *in forma pauperis* application within thirty days from the June 27, 2011, Order. Cole was notified that failure to comply with the Court’s order would result in the case being dismissed for want of prosecution and that if the case was dismissed under these circumstances, the case would not be reinstated to the District Court’s docket. The Court’s order was mailed to Cole on June 27, 2011 (Court File No. 2) and on June 28, 2011 (Court File No. 3).

Cole has failed to respond to the Court’s Order. Rule 41(b) of the Federal Rules of Civil Procedure allows a court to dismiss an action *sua sponte* for failure to prosecute or for failure to comply with the federal rules or any court order. This authority is based on the Court’s inherent authority to control its docket and prevent undue delays in the disposition of pending cases.

Accordingly, this action will be **DISMISSED** *sua sponte*, for failure to prosecute and comply with the orders of this Court. Fed. R. Civ. P. 41(b); *Jourdan v. Jabe*, 951 F.2d 108 (6th Cir. 1991).

An appropriate judgment will enter.

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**